o.f.

Case

AT a meeting of the Philadelphia Bar, held the 16th day of October, 1830,

SAMSON LEVY, was called to the chair, and PETER A. BROWNE was appointed Secretary.

WILLIAM RAWLE, on behalf of the Committee appointed on the 27th day of November, 1829, made the following report:

"The Committee appointed on the 27th of November last Report, that they have performed the duties assigned to them.

**A TABLET,**

BY THE VOLUNTARY SUBSCRIPTION OF THE BAR,

*with an appropriate Inscription, delineating the Character of*

**JUDGE WASHINGTON,**

has been put up in the room of the Circuit Court of the United States, and on the 14th instant, an Eulogium was delivered to a respectable assembly of citizens in the Medical Hall of this city, when Doctor Chapman kindly lent the use of his large Lecture Room.

The Committee now request to be discharged.

W. RAWLE,
*Chairman of the Committee.*

*October* 16, 1830.

Whereupon it was resolved, that the report be accepted and the Committee discharged.

Resolved, that the thanks of the Bar of Philadelphia be presented to Judge Hopkinson, for his able and eloquent Eulogium, and that he be requested to furnish a copy for publication; and that the Chairman, Secretary and Charles Wheeler be a committee to carry this resolution into effect.

SAMSON LEVY, *Chairman.*

PETER A. BROWNE, *Secretary.*"

*To Joseph Hopkinson, Esq.*

*Dear Sir,*

*We take pleasure in enclosing you a copy of the proceedings of a meeting of the Philadelphia Bar, held this day.*

*We are, sir,*

*your obedient servants,*

*SAMSON LEVY,*

*P. A. BROWNE,*

*C. WHEELER.*

*Philada. Oct.* 16, 1830.

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*October* 18, 1830.

*Dear Sir,*

*I am exceedingly gratified by the approbation of my Brethren of the Bar, of my feeble attempt to express their opinions of the learning, talents and virtues of the late Judge Washington, and their sense of the loss which our profession and the country have suffered by his death.*

*The Eulogium delivered at your request, belongs to you, and must be at your disposal; but you will allow me to say, with entire sincerity, that although it may have succeeded in interesting an audience so kindly disposed to the speaker and the subject, as that I had the honour to address, I do not flatter myself with the belief that it is worthy of the honour of publication under such high auspices as the Bar of Philadelphia.*

*Most truly and respectfully,*

*Your obedient servant,*

***JOSEPH HOPKINSON.***

SAMSON LEVY, *Chairman, &c.*

Chas. S. Cope

# EULOGIUM

IN COMMEMORATION

OF THE

## HON. BUSHROD WASHINGTON,

*Late one of the Chief Justices of the Supreme Court*

*of the United States.*

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BY JOSEPH HOPKINSON.

*T. S. Manning, Printer, No. 11 South Sixth Street,*

PHILADELPHIA.

1830.

# EULOGIUM, &c.

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GENTLEMEN OF THE PHILADELPHIA BAR—

THE DEATH of every good man is a loss to the community, and an affliction to his friends.—But, in ordinary cases, the impression made by such events is light and transient.—Nearest relatives and dearest friends of the departed, return from the grave to their accustomed occupations, and plunging into the business and pleasures of the world, the lessons of death are soon forgotten—the body will be refreshed by sleep and food; the mind will be attracted by the objects of interest which surround it.—This is a good and wise Providence; for, if the traces of grief, so often repeated by such privations, were to sink more deeply and durably into the heart, life would be a succession of sorrows, a dark and weary pilgrimage; and we should be unfitted to discharge the indispensable duties of our existence. Man was *not* made to mourn.—This is not always so—Death, as if to vindicate his power and enforce respect, sometimes strikes a victim, whose virtues were so rare, whose usefulness was so rich; whose example, so pure and bright, and whose intercourse was so endearing, that the interests of society are sorely smitten by the blow, and the loss is of universal concern.—Such is the calamity we now commemorate and deplore.

Bushrod Washington, was the eldest son of John A. Washington, Esq., of Bushfield, in the county of Westmoreland, and state of Virginia.—*Bushrod,* was the maiden name of his mother, who was a lady of fine fortune, polished education and manners, and of one of the best families in Virginia. His father was the brother of, and next in age to General George Washington, and was a gentleman of great worth, of a strong mind, and highly respected. He was repeatedly elected a representative in the State Legislature, and was an active and useful magistrate of the county. The utmost attention was paid to the early education of Bushrod, and his diligence and capacity turned to the utmost advantage all the means of improvement offered to him. Having passed through his preparatory studies, he entered into the College of William and Mary for the completion of his instruction. The war of the revolution was then raging, which not only laid waste our fair and flourishing fields, and the dwellings of domestic happiness, but overwhelmed the sequestered streams of intellectual improvement. About this period, the enemy turned his arms to the south, and Virginia was invaded by a British force, under the command of Lord Cornwallis.—The flame of patriotism, which afterwards burnt so bright and strong in the bosom of the man, was kindled in the boy, and young Washington discarded his academic gown for the uniform of a soldier, and his books of science for the implements of war.—He joined a volunteer troop of horse, and served under the command of

General Lee, whose daring courage and ceaseless activity kept all under his orders, and particularly the cavalry, in a constant and dangerous employment.—The invasion being turned to another direction, Bushrod, with his companions, returned to their homes.

In the following winter, that is, in the winter of 1781, he came to this city to study the law, under the auspices of his uncle, General Washington, and was by him placed under the direction of James Wilson, Esq., an eminent counsellor, and afterwards a Judge of the Supreme Court of the United States. At this early period of the life of Bushrod, he was distinguished by the peculiar and parental regard and patronage of his uncle, who introduced him into the best society of our city, and supplied him, liberally, with all proper indulgences and pleasures.—Having completed his legal studies with exemplary diligence and success, he went back to his native state to enter upon the practice of his profession, in which he soon acquired reputation and employment. In 1787 he was elected to the House of Delegates; and was, in the following year, a member of the Convention of Virginia which adopted the Constitution of the United States. In the performance of the duties of these high appointments, he evinced, although a young man, the manly decision of purpose, the strong and clear judgment, the natural, unaffected eloquence, and the intangible integrity, which constituted the elements of his character throughout life.—After this period he moved to Alexandria, where he resided, in the practice of his profession,

for several years. But the sphere of action was here too narrow for his powers, and he sought a wider theatre, and a more arduous competition at the bar of Richmond. His reputation rose so rapidly, and he stood so prominent, even amongst the great lawyers of that city, that in 1798, he was selected by John Adams, then the President of the United States, to fill the vacancy on the bench of the Supreme Court of the United States, occasioned by the death of Judge Iredell. Judge Washington was but thirty-six years old when he was placed beside the Cokes and the Hardwickes of America, as their associate and equal in the administration of the laws and justice of the country.—What station in human affairs is more dignified, more important, more responsible? Unlike any other judicial tribunal in its constitution and powers, the Supreme Court of the United States sits in final judgment, not only upon the fortunes and rights of individuals, but over the authority, proceedings, and privileges of sovereign states, bound to each other by a solemn compact of union, and held by this tribunal to the full and faithful performance of the terms of that compact. The rights and the safety of each member of this majestic confederation, the prosperity, the honour, and the destiny of the whole, depend, mainly, on the learning, intelligence, the integrity, and unfettered independence of this Court.

It was the singular fortune, and the distinguished merit, of President Adams, to bring upon this bench, two of its most brilliant ornaments—Virginia has the

honour of having produced them both.—You, my brethren of the bar, and our brethren in every part of these United States, who are intimately acquainted with the official labours of the present Chief Justice, with their vital importance to the firm establishment and practical operations of the Government under which we live, you will not refuse your assent to the opinion, that if the President who raised *John Marshal* to that office, had not earned the gratitude of this people, by any other act of his life, he has done enough by this appointment to be held as a benefactor to his country. You also know how much he added to the debt by giving us Judge Washington.

It is not my purpose to be minute in detailing the private life and domestic history of Judge Washington, nor to dwell upon incidents connected with them —such topics belong to his biographer.—We are here to speak of him in his high office of an administrator of the laws—to call to your recollection the intellectual and moral qualifications which gave so much dignity; so much learning; such integrity; such unwearied attention; such patient, searching, and penetrating investigation, and such clear and grand results to all his labours.—All the influence he possessed over the hearts and understandings of his hearers, the profound respect he always commanded, were purely moral and intellectual. In his person and manner there was nothing peculiarly impressive, to give a reverence to weakness; he achieved nothing by violence, or an arrogant exercise of official authority, but he obtained from the proudest the deference

that was due to him; and from the most refractory, implicit obedience. He had that temperate, but inflexible firmness, which grew on a just confidence in himself, and is the courage of superior minds.—Where is the man who, with manners so simple and free; with a disposition so kind and social; with a diffidence so true and unpresuming in his private intercourse, could yet maintain, in the discharge of his public duties, an independence more uncompromising; a dignity more imposing; a resolution more intrepid, than Judge Washington—In the many years of his presidency in your courts, counsellors and advocates have stood before him, clothed with all the consideration which learning, talents, and private worth could bring to them; personally beloved and admired by the Judge, who delighted to praise and exalt their merits; but who has seen the influence of their character or of his respect for it, rise to the height of the bench, or bring him, for a moment, down from it. I appeal to you, my brethren, can any one of you, high or humble in the profession, name an instance in which he turned his eye or his ear from the cause to regard the importance of the suitor or the rank of his counsel—All were listened to with equal patience, and received equal justice at his hands. He knew the cause only by the evidence, and decided it only by the law.—Who is there among you, and I address great and aspiring men, who can boast of any power over this Judge beyond the strength of his argument? Who is there who can reproach him with inattention and neglect? Which of you could hood-

wink his vigilance, or shake his firmness? Have you not seen him check with a word or a look undue pretensions, and encourage and sustain the diffident? He loved you—he respected you—he was proud of you—but he yielded not a jot of his independence; he gave not a line of his duty, to any of you.—Look back upon the experience of more than thirty years, and say whether one act of his life can subtract from this tribute of truth and justice.

Few, very few men, who have been distinguished on the judgment seat of the law, have possessed higher qualifications, natural and acquired, for the station, than Judge Washington. And this is equally true, whether we look to the illustrious individuals who have graced the Courts of the United States, or extend the view to the country from which so much of our judicial knowledge has been derived.—He was wise, as well as learned; sagacious and searching in the pursuit and discovery of truth, and faithful to it beyond the touch of corruption, or the diffidence of fear.—He was cautious, considerate, and slow in forming a judgment; and steady, but not obstinate, in his adherence to it. No man was more willing to listen to an argument against his opinion; to receive it with candour, or to yield to it with more manliness, if it convinced him of an error. He was too honest, and too proud to surrender himself to the undue influence of any man; the menaces of any power, or the seductions of any interest; but he was as tractable as humility to the force of truth, as obedient as filial duty to the voice of reason: When

he gave up an opinion, he did it not grudgingly, or with reluctant qualifications and saving explanations; it was abandoned at once, and he rejoiced more than any one at his escape from it. It is only a mind conscious of its strength, and governed by the highest principles of integrity, that can make such sacrifices, not only without any feeling of humiliation, but with unaffected satisfaction.

Although the professional studies of Judge Washington were deep and extensive, and had been prosecuted with the most exact attention, he was, by no means, what is called a case hunting lawyer. He knew how far he should yield to authority, without giving himself up to it without examination or reflection.—His reading, his experience, his knowledge, and the resources of his own mind were all brought into action in the performance of his duties. He was, as every safe judge must be, respectful of the authority of decided cases, but equally discriminating and careful in applying them. He had not the weak and dangerous ambition, which would shape the law to its own notions and purposes, nor the contemptible vanity to disregard the wisdom and learning of others. Honesty, sincerity, and good faith were the elements of his public, as they were of his private, conduct and character. There was a frankness, sometimes a playfulness, in his manners, which, nevertheless, detracted nothing from the respect due to his station. He scorned the tricks and solemn contrivances by which inferior men endeavour to attract attention and seem to be wise. There was nothing artificial about

him; but he shewed his opinions, his feelings, and himself, as in truth they were. He avoided equally a rash confidence, an authoritative annunciation of his own sentiments, and an unbecoming subserviency to others. He had no dealing with mysteries and subtleties, but practiced a straight-going simplicity in every thing, which gained the understandings of those he would convince, and brought them, willingly, to his opinion. "Judges" says Lord Bacon, "must beware of hard constructions and strained inferences, for there is no worse torture than the torture of the laws." The same great man well described our Judge when he said, "It is no grace to a judge first to find that which he might have heard, in due time, from the bar; or to shew his quickness of conceit in cutting off evidence or counsel too short.—Let not the Judge meet the cause half way, nor give occasion to the party to say, his counsel and proofs were not heard."—Who was more patient in hearing than your departed friend? Who, more advised in deciding? The unfortunate suitor could not say that his "counsel and proofs were not heard," and if he left the hall of Justice disappointed and dissatisfied, he could not utter or feel a reproach upon the conduct of his Judge.

We have already observed, that Judge Washington, at a very early age, enjoyed the peculiar affection and patronage of his uncle, Gen. Washington. The sagacity of the *first of men* was not deceived in selecting his favourite: the maturity of Bushrod more than justified this honourable distinction of his

youth. On the decease of the General, he bequeathed to this beloved nephew his estate of Mount Vernon, which, says an eloquent and true friend of the Judge, "was the residence of this great patriot during the most brilliant periods of his life; the delightful retreat of his old age, the scene of his dying hours, and the spot where, by his own orders, his ashes now repose in the same tomb with his ancestors."—There also now rest the ashes of his nephew so beloved, so cherished, so respected by him.—The sculptured monuments of conquerors may open and pour out their gorgeous tenants; the massy pyramids may be rent asunder, and the kings of earth break from their hidden recesses—but their glories will fade, and their lights be extinguished in the brighter effulgence which will burst from the turf-covered sepulchre on the banks of the Potomac.

Alexander bequeathed his kingdom "to the most worthy" but left it to be decided by force or by fraud; by the devastations of war or the blindness of chance, to whom the bequest should be awarded. Washington also gave his possessions to the most worthy, but with more wisdom and more virtue, designated the dear and honoured object of his bounty.—To the nephew whose progress he had watched from his earliest step in life; whose success had gratified his fondest hopes, he delivered his paternal fields; his beloved home; his halls of meditation and chambers of repose. He also committed to him all his valuable public and private papers, and made him the active executor of his will.—What a testimonial of

confidence and affection! and to say that it was *well bestowed,* is the highest praise that man can give to man.

Judge Washington came to the bench of the Supreme Court at a period when its duties were exceedingly arduous and interesting. The convulsions of Europe, which were felt in the United States, gave birth to questions of national and constitutional law, which involved in their consequences the honour and peace of our country, and which it was the right and duty of this court to hear and determine. Many of these questions, arising out of unprecedented circumstances in the positions and pretensions of the belligerent nations of Europe, and from our own peculiar relations with all of them, were new and difficult in themselves, and rendered more so by the dangers which threatened us on every side, and beset every course we might take.—In such a state of things, when the passions of the people were agitated and inflamed, and these passions were necessarily communicated to our popular assemblies, we may imagine the importance of having, in our system of government, one department which, firmly based upon a rock, lifted its head above the storm, and controlled its fury. Independent, truly independent, in all times and under all circumstances, it yields neither to the influence of the executive, nor to the clamours of the multitude; but, standing upon the Constitution, it defends it against *every* attack; and, *let it never be forgotten, they will stand, or fall together.*—"I believe before Heaven," said the late President of the

United States, "that the durability of this Government depends upon that Court." Immovable in its integrity, enlightened in its knowledge, patriotic in its designs, at the period I have alluded to, it understood perfectly its powers and its duties, and moving on with the moderation of true dignity and the confidence of conscious rectitude, no considerations of policy or popularity could change its course. This exalted tribunal, exalted by the trust and power reposed in it by the Constitution, *whose guardian it is,* and scarcely less so by the qualifications of the great and good men who have exercised its powers, was then the ark of our safety; has continued to be so, and will be so, while the Constitution is the supreme law of the land, and the rights we enjoy under it, the sacred inheritance of every citizen of the United States.—Therefore it is that the enemies of our institutions; of our prosperity and happiness; in a word—*of our union,* have been and are indefatigable in their efforts to undermine the authority of this court; to bring suspicion and contempt upon it; to paralize its strength and defame its character. Troy cannot fall while Hector lives.—Never let an American, who loves his country, doubt that it is upon this tribunal, upon its independence, knowledge and purity; upon its being never touched by any species of corrupt influence, and never disgraced by incapacity and ignorance, that the prosperity, freedom and happiness of this people mainly depend. It is the regulating power of the complicated machine of our government; without it every part would be speedily

throwu into disorder, and run wildly to confusion and ruin. If you shall live to see the day when *Faction*, whatever name it may assume, whether it shall call itself *State Rights*, or what it will, shall succeed in breaking down this barrier of the Constitution; this defence of every right you possess—be assured, and let the solemn truth sink deep into your hearts, there is an end of this government, of the union of these states and of all the happiness you enjoy under it.—The great republican experiment now for the first time put on trial; the question whether a people can govern themselves, will be pronounced to be a failure, and the friends of free institutions must give them up.—This is well known to your enemies every where, and therefore in all their discussions; in their popular harangues and festive toasts, the Supreme Court is a special object of bitter vituperation.—We have, however, the pride and consolation to know that although this hostility has been waged almost from the adoption of the Constitution, and has been supported by great and popular names, the court has continued silently to advance in the favour of the people; to fix its foundations deeper and firmer in their confidence, and to defeat and defy its assailants, by exhibiting, from year to year, the best evidences of its integrity and usefulness.—This defence will never fail, while there is virtue enough in the people to value the virtuous, and intelligence enough to know their own good.

No man was ever better fitted to be a part of such a tribunal than Judge Washington.—We find

him accordingly, at once participating in all its labours.—To you I need not detail his services in this high station—You have witnessed them, they are recorded in the volumes of your libraries, and have often been the subjects of your studious contemplation.—Still less is it necessary to remind you, particularly, of his proceedings in this district, which has, indeed, been the principal theatre of his judicial operations. Happily his decisions have been collected and published under his own eye, and will be to you, and to those who shall follow you, safe and luminous guides in various complicated and difficult branches of the law.—In them you will see the extent and accuracy of the learning of the judge; his peculiar sagacity in perceiving, and skill in removing embarrassing obstructions, and passing through them to the true point of the controversy.—The variety of his legal knowledge will not fail to excite your admiration—you will find in these reports an astonishing mass of equity and common law; of national and constitutional law; of commercial and local law;—such are the onerous duties of an American judge; hardly to be credited in the country where different courts are constituted for the different departments of the science of jurisprudence.

While I refer you to these instructive volumes for a knowledge of the decisions of Judge Washington, I should be unjust to my subject, were I to omit to remind you of a case which should never be forgotten by any citizen of this Republic—It is a lesson of duty so impressive, so honourable to all concerned

in it; and most of all to the commonwealth of which we are immediate members—I allude to the trial of General Michael Bright and others, on an indictment for obstructing the execution of the process of a Court of the United States.—It was tried in this city, in the spring of 1809, before Judges Washington and Peters.

It is unnecessary for my purpose to state all the circumstances of this celebrated case.—It is sufficient to say, that during the war of our revolution, Gideon Olmstead and others, having fallen into the hands of the enemy, were put on board of a British Sloop, as prisoners of war, to be conducted to New York.—During the passage, Olmstead and his companions rose on the British crew, took the vessel from them, and steered for a port in the United States. When within five miles of such a port, a brig, belonging to the State of Pennsylvania, came up with them and captured the sloop as a prize.—She was brought to Philadelphia, and there libelled in the Court of Admiralty of the State, then established under an act of the State Legislature.—Olmstead and his associates filed their claim, and a judgment was rendered, giving one-fourth of the prize to them, and the remainder to the brig; that is to the State of Pennsylvania, her owner.—Olmstead appealed to the Court of Appeals, established by Congress; where the sentence of the Court of Admiralty was reversed, and the whole prize decreed to Olmstead; and process was issued, directing the Marshal to sell the vessel and cargo, and pay the proceeds accordingly.

The Judge of the Court of Admiralty, delivered to David Rittenhouse, then Treasurer of the State, the sum to which the State was entitled by the judgment of that Court, but which, by the decree of reversal, belonged to Olmstead.—This money, in the form of certificates, were in the possession of Mr. Rittenhouse at the time of his death, and then came into the hands of his daughters, as his representatives.—The property was in this situation, when Olmstead filed his libel in the District Court of the United States, then established under the new Constitution, praying for the execution of the decree of the Court of Appeals.—A decree was given by the District Court, according to the prayer of the libel.—This was in January, 1803.—Thus far the State of Pennsylvania had made no movement to assert her claim; but it was now necessary for her, either to surrender her pretensions to this money, or to come forward and defend her citizens who were holding it only for her use, and in doing so, were exposed to the whole power of the federal judiciary.—Accordingly, on the 2d of April, 1803, an act was passed by the Legislature of Pennsylvania, requiring the representatives of Mr. Rittenhouse to pay the money into the State Treasury; and directing a suit against them should they refuse. The Governor of the State was also required to protect the just rights of the State, by any further measures he might deem necessary; and also to protect the persons and property of the ladies from any process which might issue out of the federal court, in consequence of their obedience to

this requisition. The Act of Assembly declared, that the exercise of Jurisdiction by the Court of Appeals was illegally usurped, in contradiction to the just rights of Pennsylvania; and that the decree of reversal was null and void:—So of the decree of the District Court.—Pause, for a moment, to observe the awful positions in which these two sovereignties, that of the United States, and that of Pennsylvania are now placed. The United States were bound to support with their whole force, the execution of the judgment of their Court; and the Governor of Pennsylvania was ordered by its Legislature to resist the execution of that judgment with the whole force of the State.—We tremble even now to look back at the precipice on which we stood. A false step, on either side, might have been ruin to both. Nothing but the most calm and consummate prudence; the most disinterested and magnanimous patriotism could have brought us safely through this mortal crisis.

The District Court hesitated to proceed.—The question was one of great difficulty and delicacy; the anticipated conflict, terrible in the extreme. The process was suspended, that the case might be submitted to the Supreme Court; which, after a hearing, stood firmly to the Constitution and the Law, and commanded the District Judge to issue the process required.—It was issued.—Many of you may remember with what an agonizing anxiety the result was awaited.—Was a civil war to tear the entrails of the state? and citizen to meet citizen in a deadly strife? Was our happy and prosperous career doomed

to be so short? Was this glorious Union to dissolve in blood, after a few years, which had proved its unparalleled excellence; had poured, plenteously, bounties upon our land; had raised us from weakness, poverty, and obscurity, to the power and dignity of a great nation: which had given liberty, security, and wealth to a virtuous and industrious people, was all to be shattered and lost in an unnatural conflict?—*The process was issued;* and the officer of the Court had no choice but to execute it; and to compel obedience to it by the means given to him by the law. General Michael Bright, commanding a brigade of the militia of Pennsylvania, received orders from the Governor, immediately to have in readiness, such a portion of the militia under his command, as might be necessary to execute the orders, and to employ them to protect and defend the persons and property of the Representatives of Mr. Rittenhouse from and against any process founded on the decree of the District Court of the United States.—A guard was accordingly placed by General Bright at the houses of these ladies; and he, with the other defendants in the indictment, opposed, with force, the efforts of the marshal to serve the writ issued to him.—The process, however, was served; and the state relieved the ladies, not by waging war upon the United States, but by paying the money according to the judgment of the Court.—This is enough of the history of this interesting case for our present object.—It was for this resistance to the process of a Court of the United States, that General Bright and others of his party,

were indicted, and brought to trial before Judges Washington and Peters, holding a Circuit Court of the United States. I have been thus particular in giving the outlines of this cause, because it not only forms a remarkable era in the life of the Judge, but also in the history of our country. At this moment it may furnish a salutary lesson and example to a sister state advancing too far in the path of opposition to the federal power.

In the course of the trial, and in deciding the various questions of law which arose in it, the extraordinary judicial qualifications of our Judge were shewn in full relief. His learning; his patient hearing; his clear and discriminating sagacity; and, above all, his unhesitating fearlessness, were all conspicuous. No judge was ever better entitled to exclaim, "*Fiat justitia; ruat cœlum.*"

Already I begin to dread the weariness of my hearers, or I should delight to recite to you some extracts from his opinions on these questions; and from his charge to the jury, in which his unrivalled talent, and consequent ascendancy, in performing that duty, are so finely manifested. In these, and in the kind but strong and impressive language he addressed to the prisoners, when convicted and brought up for sentence, he unfolds his doctrines of the rights of Courts and the rights of Juries, equally respecting both. In his charge, he says, with his characteristic freedom—"Let me put the question seriously to the jury—will they have the vanity to think themselves wiser than all those who have passed opinions upon this important *question of law?*"—

The relative rights and powers of the federal and state governments are also expounded on the soundest principles of the Constitution.—I can go no further on this subject—I leave it reluctantly.

The jury, a Philadelphia jury, were too intelligent and conscientious to disregard the law to indulge a natural and equitable disposition favourable to the defendants, who were found guilty of the charges laid in the indictment.

Now, I pray you, mark the conduct of the people of Pennsylvania, at this unprecedented, trying crisis. Can she recede from her absolute assertion of right? Can she take back her unqualified menaces of resistance, and promises of protection to her citizens?—A Judge, in himself a weak and helpless individual, supported by no power but the law, pronounces a sentence of criminal condemnation upon the assembled Representatives of that people—upon their supreme executive authority; upon *themselves;* and orders the minister of their will, surrounded by a military force under his command, to a *common gaol*—And this is submitted to with a reverential awe; not a murmur from the prisoner; not a movement by the people to rescue him from a punishment inflicted upon him for obeying their mandates; for sustaining their authority, and defending their interests.—And why?—Because the law had spoken—it was the judgment of the law.—The people were wise and virtuous; they loved their country above all things; and to her they willingly surrendered their strength; their passions, their pride, and their interest. A jury of Pennsylvania, instructed and convinced that the

supremacy of the law had been violated, gave up the offenders—their fellow-citizens, respected, and worthy of respect, to its penalties.—What a Judge! how fearless in his duty!—What a people! how magnanimous in their submission! How worthy of each other: No proud and passionate assertion of sovereignty; no violent menaces of insulted power; no rebellious defiance of the federal authority; no inflammatory combinations to resist it; and to shatter, in their madness, the beautiful fabric of our Union:—In short, no *nullification*—a new and portentous word—but a calm and noble submission to the concentrated power of all the States, in a government made and adopted by all; which all are bound, by their solemn and pledged faith, by their hopes of peace, safety, and happiness, to maintain and obey. It is only by such efforts of patriotism that this great and growing Republic can be preserved. If, whenever the pride of a state is offended, or her selfishness rebuked, she may assume an attitude of defiance; may pour her rash and angry menaces on her confederated sisters; may claim a sovereignty altogether independent of them; and acknowledge herself to be bound to the Union by no ties, but such as she may dissolve at pleasure, we do indeed hold our political existence by a most precarious tenure, and the future destinies of our country are as dark and uncertain as the past have been happy and glorious.

Happy is that country, and only that, where the laws are not only just and equal, but supreme and irresistible;—where selfish interests and disorderly passions are curbed by an arm to which they must

submit:—We look back with horror and affright to the dark and troubled ages when a cruel and gloomy superstition tyrannized over the people of Europe; dreaded alike by kings and people; by governments and individuals; before which the law had no force; justice no respect; and mercy no influence. The sublime precepts of morality, the kind and endearing charities; the true and rational reverence for a bountiful Creator, which are the elements and the life of our religion, were trampled upon in the reckless career of ambition, pride, and the lust of power. Nor was it much better when the arm of the warrior, and the sharpness of his sword determined every question of right; and held the weak in bondage to the strong; and the revengeful feuds of the great involved, in one common ruin, themselves and their humblest vassals.—These disastrous days are gone, never to return: There is no power but the *Law*, which is the power of *all*, and those who administer it are the *masters* and the *ministers* of all.

We approach the conclusion of this imperfect, but sincere tribute to the memory of a great and good man:—we have viewed him in the health and vigour of his faculties; we must now behold him on the bed of sickness; his spirit depressed, his strength wasting, and the current of life ebbing to a close.

If life be a wonderful and mysterious phenomenon, death is not less so:—To see a spirit, in a moment quenched, which, but just now, was glowing with activity and intelligence, fraught with the knowledge of ages, and beaming with the lights of genius; to see the body, which was the habitation and the

instrument of such a spirit, fall lifeless, immovable; pass into a rapid dissolution, and disappear for ever, is indeed wonderful and mysterious.

"It seems hard," says a fervid writer in an English Journal, "when a man has toiled high up the steep hill of knowledge, that he should be cast, like Sysyphus, downward in a moment; that he who has worn the day and wasted the night in gathering the gold of science, should be with all his wealth of learning, all his accumulations, made bankrupt at once.—What becomes of all the riches of the soul, the piles and pyramids of precious thoughts which men heap together? Where is Shakspeare's imagination?—Bacon's learning? Where is the sweet fancy of Sidney, the airy spirit of Fletcher, and Milton's thought severe? Methinks such things should not die and dissipate, when a hair can live for centuries, and a brick of Egypt will last three thousand years."

We return to our subject to take leave of it.—After contemplating a life so excellent in all things, as that of Judge Washington, we may assuredly approach its termination without distrust. We cannot fear to find him wanting in the dignity and courage of virtue in the last duty of man—*to die;* nor betraying any weak or unchristian reluctance to throw off "this mortal coil" to enter into the brighter regions of an immortal existence.

In the latter end of September, in the last year, he came to this city, on his way to Trenton, where he was to hold a Circuit Court on the first day of October. I called to see him in the afternoon of the day after his arrival—he was full of animation and ap-

parent health—he was, indeed, highly exhilarated—he spoke of his late visit to the Springs; of the severe exercise he was able to undergo there; of his climbing the high hills, without the least inconvenience, or any symptoms of the shortness of breath that had formerly afflicted him. I remember well that, speaking of the business of his approaching Courts, he made a quick movement, and said—"I am now ready for any thing." It was the last hour of his health.—The next morning I made him another visit—he was entirely changed; he looked wearied and distressed; he said he had passed a disturbed and sleepless night. He however attributed his indisposition to a supper he had eaten, which he thought had produced indigestion; and we both expressed a confidence that this derangement of his system would be but temporary. The next day he went on to Trenton, and got through the business of that Court, although labouring under sickness and pain. On his return to Philadelphia, his appearance bespoke how much he had suffered; but we nevertheless hoped, from day to day, he would yet be able to attend his duties here. That hope was never realized. With repeated changes, as the remedies applied took effect, or the disease which afflicted him predominated, he was better and worse for several weeks, until the 26th day of November, when, in the language of the tablet which your justice and gratitude have erected to his memory, he died, "leaving to his professional brethren a spotless fame—and to his country, the learning, labour and wisdom of a long judicial life."